

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAYMOND BERGERON-DAVILA,

Plaintiff,

v.

MARTHA MACIAPENTO,

Defendant.

ORDER

Case No. 20-cv-13-jdp

On January 8, 2020, this court entered an order directing plaintiff submit by January 30, 2020 the \$400 filing fee or a motion for leave to proceed without prepayment of the filing fee and a trust fund account statement for the period beginning approximately July 8, 2019 and ending approximately January 8, 2020. Now plaintiff has filed a motion to use release account funds to pay the entire fee for filing this case.

However, with the exception of initial partial payments, federal courts lack the authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from a release account. Plaintiff cannot use release account funds to pay the entire balance of the filing fee, and so plaintiff's motion will be denied.

For this case to proceed, must pay the \$400 filing fee or submit a properly supported motion for leave to proceed without prepayment of the filing fee. If I find that plaintiff is indigent, I will calculate an initial partial payment amount that must be paid before the court can screen the merits of the complaint under 28 U.S.C. § 1915(e)(2). Thereafter, plaintiff will be required to pay the balance of the filing fee in installments.

ORDER

IT IS ORDERED that,

1. Plaintiff Raymond Bergeron-Davila's motion for use of release account funds to pay the entire filing fee in this case (Dkt. #5) is DENIED.

2. Plaintiff may have until February 14, 2020 to submit the \$400 filing fee or a motion for leave to proceed without prepayment and a trust fund account statement for the period beginning approximately July 8, 2019 and ending approximately January 8, 2020. If, by February 14, 2020, plaintiff fails to respond to this order, I will assume that plaintiff wishes to withdraw this action voluntarily. In that event, the case will be closed without prejudice to plaintiff filing the case at a later date.

Entered this 14th day of January, 2020.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge